IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.42 OF 2004

Karnataka Ginning & Pressing Factory .. Appellant.

V/s.

Commissioner of Central Excise Thane II Division .. Respondent.

Mr.J.M. Patel with Mr.V.P. Sawant for the appellant.

Mr.P.S. Jetly for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 6TH APRIL, 2005.

P.C. :

Heard.

2. This appeal arises out of the order of Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench, Mumbai ('CESTAT' for short) dated April 28, 2004 declining to restore the appeal which was dismissed on November 8, 2003 for non-compliance of the order of pre-deposit.

3. After the matter was heard for a while, the counsel for the appellant expressed willingness of the appellant to deposit a sum of Rs.13,00,000/- towards duty deposit so that the matter can be heard

on merits by the Tribunal. The counsel for the revenue was not aversed to this proposal. Accordingly, by consent of both the parties the orders passed by the CESTAT dated November 18, 2003 and April 28, 2004 are set aside and the appeal filed by the appellant before the CESTAT stands restored. On such restoration the Tribunal to dispose of the appeal on its own merits. On compliance of this order, the security, if any given by the appellant in lieu of pre-deposit shall stand released.

4. The appeal stands disposed of in above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)